

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
EASTERN DIVISION
No. 4:11-CR-114-D

UNITED STATES OF AMERICA

v.

JOHN VALENTIN,

Defendant.

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ORDER

On February 6, 2012, without a written plea agreement, John Valentin (“Valentin”) pleaded guilty to possession with the intent to distribute five grams or more of cocaine base (crack) (count one), and possession of a firearm in furtherance of a drug-trafficking crime (count two). See [D.E. 1, 27]. On May 7, 2012, the court held Valentin’s sentencing hearing. See [D.E. 33, 34]. At the hearing, the court adopted the facts set forth in the Presentence Investigation Report (“PSR”). See Fed. R. Crim. P. 32(i)(3)(A)-(B). The court calculated Valentin’s total offense level to be 25, his criminal history category to be III, and his advisory guideline range on count one to be 70 to 87 months’ imprisonment. See Resentencing Report. After thoroughly considering all relevant factors under 18 U.S.C. § 3553(a), the court sentenced Valentin to 72 months’ imprisonment on count one and 60 months’ consecutive imprisonment on count two. See id.; [D.E. 34]. Valentin did not appeal.

On October 30, 2015, Valentin moved for a sentence reduction under 18 U.S.C. § 3582(c)(2), U.S.S.G. § 1B1.10, and Amendment 782. See [D.E. 49]. Valentin’s new advisory guideline range on count one is 60 to 71 months’ imprisonment, based on a total offense level of 23 and a criminal history category of III. See Resentencing Report. Valentin requests a 61-month sentence on count one. See id.; [D.E. 49] 2, 4.

The court has discretion under Amendment 782 to reduce Valentin's sentence under Amendment 782. See, e.g., Chavez-Meza v. United States, No. 17-5639, 2018 WL 3013811, at *4–7 (U.S. June 18, 2018); Dillon v. United States, 560 U.S. 817, 827 (2010); United States v. Peters, 843 F.3d 572, 574 (4th Cir. 2016); United States v. Patterson, 671 F. App'x 105, 105–06 (4th Cir. 2016) (per curiam) (unpublished); United States v. Cole, 618 F. App'x 178, 178–79 (4th Cir. 2015) (per curiam) (unpublished); United States v. Thomas, 546 F. App'x 225, 225–26 (4th Cir. 2013) (per curiam) (unpublished); United States v. Perez, 536 F. App'x 321, 321 (4th Cir. 2013) (per curiam) (unpublished); United States v. Smalls, 720 F.3d 193, 195–97 (4th Cir. 2013); United States v. Mann, 709 F.3d 301, 306–07 (4th Cir. 2013); United States v. Stewart, 595 F.3d 197, 200 (4th Cir. 2010). In deciding whether to reduce Valentin's sentence, the court finds that Valentin engaged in serious criminal behavior. See PSR [D.E. 28] ¶¶ 5–8. Moreover, Valentin is a recidivist and has convictions for criminal possession of marijuana/more than 2 ounces, criminal possession of a controlled substance, and possession of cocaine (2 counts). See id. ¶¶ 7, 10–16. Valentin also has performed poorly on supervision and has a spotty work history. See id. ¶¶ 13, 28–30. Valentin has taken some positive steps while incarcerated on his federal sentence, but he has been sanctioned for being in an unauthorized area. See Resentencing Report; cf. Pepper v. United States, 562 U.S. 476, 491 (2011).

Having reviewed the entire record and all relevant policy statements, the court finds that Valentin received the sentence that was “sufficient, but not greater than necessary” under 18 U.S.C. § 3553(a). Further reducing Valentin's sentence would threaten public safety in light of his serious criminal conduct, serious criminal history, and misconduct while incarcerated. Cf. U.S.S.G. § 1B1.10, cmt. n.1(B)(ii). Thus, the court denies Valentin's motion for reduction of sentence under Amendment 782. See, e.g., Chavez-Meza, 2018 WL 3013811, at *4–7; Patterson, 671 F. App'x at

105–06; Cole, 618 F. App'x at 178–79; Thomas, 546 F. App'x at 225–26; Perez, 536 F. App'x at 321.

In sum, the court DENIES Valentin's motion for reduction of sentence [D.E. 49].

SO ORDERED. This 19 day of June 2018.



JAMES C. DEVER III
Chief United States District Judge